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09/815,360	03/22/2001	Sean T. Boerner	BoernerTrend	4877
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RICK B. YEAGER, ATTORNEY 10805 MELLOW LANE AUSTIN, TX 78759			NGUYEN, NGA B	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/815,360	<b>Applicant(s)</b> BOERNER, SEAN T.
	<b>Examiner</b> NGA B. NGUYEN	<b>Art Unit</b> 3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

#### **Status**

1) Responsive to communication(s) filed on 17 November 2007.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-26 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-26 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

#### **DETAILED ACTION**

1. This Office Action is in response to the Amendment filed on May 24, 2007, which paper has been placed of record in the file.
2. Claims 1-26 are pending in this application.

#### ***Response to Arguments/Amendment***

3. Applicant's arguments with respect to claims 1-26 have been considered but are not persuasive.

Applicant's arguments with respect to claims 1-26 have been considered but are not considered to have merit. Gatto's reference teaches all of the arguments raised, including trends analysis and picking up parameters for determining trends, column 8, lines 55-65 and column 11, lines 10-50, under the Analysis module, the user can analyze estimates according to price change, consensus change in a time series. Applicant kept repeat that Gatto does not identify the word "trends" in the cited section, examiner submits that the word "trend" is defined as "the general direction in which something tends to move" (American Heritage Dictionary), Gatto disclose the use can analyze estimates according to price change, consensus change in a time series (or the trends for price or consensus).

For the reason set forth above, examiner decides to maintain the previous rejections (also see details below) and make this Office action FINAL.

4. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).  
Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Gatto, U.S. Patent No. 7,167,838.

Regarding to claim 1, Gatto discloses a computer- implemented method, for breaking a time series into a plurality of discontinuous trends, the method comprising:

inputting time series data, the time series comprising a plurality of data elements, at least a portion of which represents a trend which is generally increasing or decreasing (column 8, lines 55-65 and column 11, lines 10-50)

selecting a plurality of sets of trend determination parameters (column 13, lines 5-65);

selecting a useful group of sets of trend determination parameters for the time series from the plurality of sets of trend determination parameters, such that the useful group of sets includes at least one member (column 12, lines 50-65);

processing the time series with each member of the useful group of sets of trend determination parameters to generate a set of trends and trend attributes for each member (column 11, lines 30-50); and

outputting the trends and trend attributes (figure 12 and column 15, lines 35-60).

Regarding to claim 2, Gatto further discloses deciding, based on the composite results of a plurality of the members of the useful group of sets of trend determination parameters, whether the newest data element of the time series represents a continuation of trend such that the trend is increasing, decreasing or flat (column 12, lines 52-65).

Regarding to claim 3, Gatto further discloses inputting time series data further comprises inputting a plurality of time series data sets to a computer; and selecting a particular time series from a plurality of time series data sets (column 13, lines 40-50).

Regarding to claim 4, Gatto further discloses inputting time series data further comprises inputting a plurality of vector datasets to a computer; and selecting a

particular vector data set from a plurality of time series data sets (column 14, lines 5-30).

Regarding to claim 5, Gatto further discloses wherein selecting a particular time series from a plurality of time series data sets further comprises for each of the plurality of time series data sets: selecting at least a portion of the elements in the data set to create a selected data subset; normalizing the selected data subset to generate a normalized subset for the time series; storing the normalized subset on the computer; calculating, on a processor, the slope of a best-fit polynomial regression through the normalized subset; and selecting a particular time series that has a large absolute slope and a large correlation coefficient between the trend and the data elements (column 12, lines 10-35).

Regarding to claim 6, Gatto further discloses specifying a range of values for each of a plurality of trend determination parameters; and generating the sets of trend determination parameters by selecting unique combinations of trend determination parameter values, such that the values are within the range of values for each of the plurality of trend determination parameters (column 12, lines 10-35).

Regarding to claim 7, Gatto further discloses wherein specifying a range of values for each of a plurality of trend determination parameters further comprises specifying a minimum value for a first trend determination parameter of initial data window size; specifying a maximum value for a first trend determination parameter of initial data window size; specifying a minimum value for a second trend determination parameter of

deviation limit; and specifying a maximum value for a second trend determination parameter of deviation limit (column 14, lines 5-30).

Regarding to claim 8, Gatto further discloses specifying a range of potential values for each of a plurality of trend determination parameters; creating an objective function from at least one indications of trend results, such that the objective function generates a resultant value for a set of trend determination parameters; and selecting a useful group of sets of trend determination parameters by applying an optimization procedure to the objective function and the range of potential values for each of the plurality of trend determination perimeters (columns 17-20).

Regarding to claim 9, Gatto further discloses wherein selecting a useful group of sets of trend determination parameters for the time series from the plurality of sets of time series parameters further comprises for each trend determination parameter set: applying the trend determination parameters to at least a portion of the time series data elements, thereby generating at least one trend and at least one trend attribute parameter; identifying the dynamic trend and at least one dynamic trend attribute parameter; calculating at least one indication of trend results between the time series and the trend set; and storing at least one indication of trend results on the computer; and selecting at least one set of trend determination parameters based on at least one indication of trend results for each of the sets (column 12, lines 50-65).

Regarding to claim 10, Gatto further discloses wherein applying the trend determination parameters to at least a portion of the time series data elements thereby generating at least one trend and at least one trend attribute parameter further

comprises: assigning each of the data elements to at least one trend by generating a first trend with at least a portion of the data elements; identifying the first trend as the current trend; evaluating each subsequent data element to determine whether the data element is a continuation of the current trend, and assigning the data element to the current trend if it is a continuation of the current trend, and assigning the data element to a new trend if it is not continuation of the current trend, and identifying the new trend as the current trend; and determining at least one trend attribute for each trend (columns 11-12).

Regarding to claim 11, Gatto further discloses wherein calculating at least one indication of trend results between the time series and trend set further comprises: calculating at last one measure from the group consisting of: the number of trends in the subset of the time series, the RMS Error between the input data values and trend values, the average trend length; the average trend length divided by the minimum number of data points needed to define a trend (window size parameter), the average percent return of the trends, the summed cumulative percent return of the trends; the fraction of correct predictions, the fraction of incorrect predictions, the quotient of the root mean square error and the average length of the trends divided by the minimum number of data points needed to define a trend, and the RMS error, the efficiency of the trends, where efficiency is defined as the average return of the trends divided by the average length of the tends, and compounded return of the tends (figure 34 and column 39, lines 12-65).

Regarding to claim 12, Gatto further discloses wherein selecting at least one set of trend determination parameters based on at least one indication of trend results for each of the sets further comprises plotting on a graph a representative data point for each of the plurality of sets of trend determination parameters and its associated trend results, where a first axis represents a first measure of trend results and a second axis represents a second measure of trend results; and selecting from the graph at least one data point that represents a trend determination parameters set that has desirable trend results (see figures 9-11).

Regarding to claim 13, Gatto further discloses wherein plotting on a graph a representative data point for each of the plurality of sets of trend determination parameters and their associated trend results and selecting from the graph at least one data point that represents a parameters set that has desirable trend results further comprises: plotting on a graph a representative data point for each of the plurality of sets of trend determination parameters, where the y-axis represents the product of the root mean square error and the deviation limit for the set of trend determination parameters, and the x-axis represents the average trend length for the set of trend determination parameters; and selecting at least one set of trend determination parameters associated with a point from the graph that has a minimum value for the product of the root mean square error and the deviation limit for a given average trend length (see figure 34).

Regarding to claim 14, Gatto further discloses wherein plotting on a graph a representative data point for each of the plurality of sets of trend determination

parameters and their associated trend results and selecting from the graph at least one data point that represents a parameters set that has desirable trend results further comprises: plotting on a graph a representative data point for each of the plurality of sets of trend determination parameters, where the y-axis represents the root mean square error for the set of trend determination parameters, and x-axis represents the average trend length for the set of trend determination parameters; and selecting at least one set of trend determination parameters associated with a point from the graph that has a minimum value for the root mean square error for a given average trend length (see figure 34).

Regarding to claim 15, Gatto further discloses wherein plotting on a graph a representative data point for each of the plurality of sets of trend determination parameters and their associated trend results and selecting from the graph at least one data point that represents a parameters set that has desirable trend results further comprises: plotting on a graph a representative data point for each of the plurality of sets of trend determination parameters, where the y-axis represents the summed cumulative percent return of the trends for the set of trend determination parameters, and x-axis represents the average percent return for the set of trend determination parameters; and selecting at least one set of trend determination parameters associated with a point from the graph that has a maximum value for both the summed cumulative percent return and the average percent return (see figures 9-11).

Regarding to claim 16, Gatto further discloses wherein plotting on a graph a representative data point for each of the plurality of sets of trend determination

parameters and their associated trend results and selecting from the graph at least one data point that represents a parameters set that has desirable trend results further comprises: plotting on a graph a representative data point for each of the plurality of sets of trend determination parameters, where the y-axis represents the summed cumulative percent return of the trends for the set of trend determination parameters, and x-axis represents the action of correct predictions for the set of trend determination parameters; and selecting at least one set of trend determination parameters associated with a point from the graph that has a maximum value for both the summed cumulative percent return and the fraction of correct predictions (figures 9-11).

Regarding to claim 17, Gatto further discloses wherein plotting on a graph a representative data point for each of the plurality of sets of trend determination parameters and their associated trend results and selecting from the graph at least one data point that represents a parameters set that has desirable trend results further comprises: plotting on a graph a representative data point for each of the plurality of sets of trend determination parameters, where the y-axis represents the average percent return of the trends for the set of trend determination parameters, and x-axis represents the fraction of correct predictions for the set of trend determination parameters; and selecting at least one set of trend determination parameters associated with a point from the graph that has a maximum value for both the average percent return and the fraction of correct predictions (see figures 9-11).

Regarding to claim 18, Gatto further discloses wherein plotting on a graph a representative data point for each of the plurality of sets of trend determination

parameters and their associated trend results and selecting from the graph at least one data point that represents a parameters set that has desirable trend results further comprises: plotting on a graph a representative data point for each of the plurality of sets of trend determination parameters, where the y-axis represents the average percent return for the trends for the set of trend determination parameters, and x-axis represents the average trend length for the set of trend determination parameters; and selecting at least one set of trend determination parameters associated with a point from the graph that has a maximum value for the average percent return for a given average trend length (see figures 9-11).

Regarding to claim 19, Gatto further discloses wherein selecting at least one set of trend determination parameters based on at least one indication of trend results for each of the sets further comprises: specifying an objective function that incorporates at least one measure of trend results, such that minimization of the objective function produces desirable trend results'; applying an optimization technique to the objective function such that the optimization technique minimizes the objective function; and selecting at least one set of trend determination parameters as a result of minimizing the objective function (columns 17-20).

Regarding to claim 20, Gatto further discloses wherein processing the time series with each member of the useful group of sets of trend determination parameters to generate a set of trends and trend attributes for each member further comprises for each member applying the trend determination parameters to at least a portion of the time series data elements, thereby generating at least one trend and at least

one trend attribute parameter; and identifying the dynamic trend and at least one dynamic trend attribute parameter; and storing at least one dynamic trend attribute parameter on the computer (column 12, lines 50-65).

Regarding to claim 21, Gatto further discloses wherein applying the trend determination parameters to at least a portion of the time series data elements thereby generating at least one trend and at least one trend attribute parameter further comprises: assigning each of the data elements to at least one trend by generating a first trend with at least a portion of the data elements; identifying the first trend as the current trend; evaluating each subsequent data element to determine whether the data element is a continuation of the current trend, and assigning the data element to the current trend if it is a continuation of the current trend, and assigning the data element to a new trend if it is not continuation of the current trend, and identifying the new trend as the current trend; and determining at least one trend attribute for each trend (column 12, lines 50-65).

Regarding to claim 22, Gatto further discloses wherein generating a first trend with at least a portion of the data elements further comprises: recalling the first trend determination parameter, the data window size, from the set of trend determination parameters; forming a proposed trend data set by selecting a number of data elements from the time series, such that the number of data elements selected is at least as large as the value of the data window size trend determination parameter; calculating a first best-fit curve through the proposed trend data set; and identifying the best fit curve as the first trend (column 14, lines 5-30).

Regarding to claim 23, Gatto further discloses wherein evaluating each subsequent data element to determine whether the data element is a continuation of the current trend is further comprises: forming a proposed trend data set from the selected data elements; calculating a new best-fit curve through the proposed trend data set; calculating at least one measure of predictive error for the new best-fit curve with respect to the values of the data elements in the proposed trend data set; projecting the best-fit curve to the location of the subsequent data element; evaluating the deviation of the subsequent data element from the projected best-fit curve value at the new location; and applying at least one acceptance criteria to the measure of predictive error, and if the acceptance criteria is met setting the subsequent data element to the proposed trend data set, identifying the new best-fit curve as the current trend, and if the acceptance criteria is not met setting the subsequent data element to a new trend set, determining a new trend, and identifying the new trend as the current trend (column 12, lines 35-50).

Regarding to claim 24, Gatto further discloses wherein calculating at least one measure of predictive error for the new best-fit curve with respect to the values of the data elements in the proposed data set further comprises evaluating the derivative of the best-fit curve; obtaining an estimated value of the best-fit curve at the new element; calculating the residuals between the proposed trend data set and the new best-fit curve; normalizing the residuals; quantifying the spread of the distribution of the normalized residuals; calculating the deviation of predicted trend value at the new element from the actual value of the new element; and normalizing the deviation of

predicted trend value at the new element from the actual value of the new element using the spread of the distribution of normalized residuals (figure 34).

Regarding to claim 25, Gatto further discloses wherein applying at least one acceptance criteria to the measure of predictive error further comprises: designating a first test criterion as true if the sign of the derivative of the trend curve generated through the proposed trend dataset changes compared to the sign of the derivative of the trend curve generated previously; designating a second test criterion as true if the absolute value of normalized deviation exceeds the deviation limit parameter; designating a third test criterion as true if the absolute value of normalized deviation exceeds the deviation limit parameter and the normalized deviation is in the opposite direction as the direction of the trend as designated by the derivative of the trend curve through the proposed trend dataset; designating a fourth test criterion as true if the correlation coefficient between the proposed trend curve and the proposed trend data set decreases below the correlation limit parameter; designating a fifth test criterion as true if the number of times that the absolute value of normalized deviation exceeds the deviation limit parameter; and the normalized deviation is in the opposite direction as the direction of the trend as designated by the derivative of the trend curve through the proposed trend dataset; exceeds the number of values parameter; designating a sixth test criterion as true if the absolute value of the normalized deviation from a flat trend exceeds the flat trend deviation limit; and determining whether at least one of the first, second, third, fourth, fifth, and sixth test criteria is true (column 39, lines 12-65).

Claim 26 is written in means and contains similar limitations found in claims 1-25 above, therefore, is rejected by the same rationale.

***Conclusion***

7. Claims **1-26** are rejected.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (571)-272-6796. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3600.

9. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

P.O. Box 1450

Alexandria, VA 22313-1450

Or faxed to:

(703) 273-8300 (for formal communication intended for entry),

or

(571) 273-6796 (for informal or draft communication, please label "PROPOSED" or "DRAFT").

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nga B. Nguyen/  
Primary Examiner, Art Unit 3692

February 2, 2008